

June 17, 2005

VIA FIRST CLASS MAIL

U.S. Federal Elections Commission
Office of General Counsel
999 E Street, N.W.,
Washington, D.C. 20463

MUR # 5667

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 JUN 20 PM 4

RE: Campaign finance law violation by attorney Mark T. Clausen; by Buchanan for President; by Buchanan-Foster 2000; and by Buchanan Reform Inc; by Angela M. "Bay" Buchanan; by Georgia Daniele Herberg

FEC investigation/enforcement division staff:

My name is Mark Rendina. The purpose of this letter is to report what I believe to be several substantial campaign finance law violations. These violations commenced prior to the 2000 Presidential election campaign and continued until at least early 2002.

All of the allegations in this complaint are based upon my personal knowledge and the supporting evidence described herein unless prefaced with "upon information and belief". I would be happy to provide any additional information the FEC requires regarding these matters.

Summary of Allegations

I allege that at least four violations occurred. First, that attorney Mark Clausen made in-kind contributions of legal expertise to the Buchanan-Foster 2000 Presidential campaign ("the campaign") *before* he was retained by the campaign. Second, that the campaign, in coordination with Mr. Clausen and as a result of his activities, accepted the transfer of internet domain names with a fair market value of tens of thousands of dollars without paying any compensation for said domain names. Third, that after Mr. Clausen was retained by the campaign for litigation services, he was either entirely uncompensated or compensated far below fair market value for these services. Fourth, that none of the three contributions described were reported as required.

Each of the three above-described contributions were: 1/ far in excess of the maximum allowable contribution limit; 2/ not reported by the campaign; 3/ initiated at the request of the campaign; 4/ with the full knowledge and consent of the campaign; 5/ at the direction of Buchanan-Foster campaign; 6/ for the benefit of the Buchanan-Foster campaign; and 7/ not related to compliance with campaign finance laws.

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Mr. Clausen was contacted by a representative of the Buchanan-Foster campaign, whom he has identified as Ms. Georgia Daniele Herberg. At her request, Mr. Clausen engaged in attempting to (and in many cases, succeeding at) getting many organizations to turn over domain names of substantial value to the campaign. However, Mr. Clausen's contributions did not end with the mere threat of litigation and extorting domain owners to turn their domains over to the campaign. Mr. Clausen actually filed two (known) lawsuits naming himself as Plaintiff in California and entered appearances before Judge Sawyer in Sonoma County, California *before* being retained or paid in any way by the campaign.

Mr. Clausen then subsequently solicited the campaign and became their attorney of record, filed what is known to be at least his third lawsuit, this time in Federal Court in California. Mr. Clausen then continued by entering at least two more appearances in California Federal Court and North Carolina Federal Court, and spent the next 16 months litigating on behalf of the campaign. As is described below, Mr. Clausen committed—in writing—to undertaking these actions “free of charge”

Supporting documents and evidence

As will be described in further detail below, the primary supporting evidence falls into five categories: 1/ correspondence from Mr. Clausen; 2/ FEC filings; and 3/ the case file from litigation Mr. Clausen prosecuted; 4/ discovery responses which Mr. Clausen has attested to under oath in civil litigation; and 5/ my own testimony

Background and review of events

Prior to the 2000 Presidential election, Rendina Solutions, LLC of which I was the member/manager, purchased multiple internet domain names. These included several variations of the names of the candidates Patrick Buchanan and Ezola Foster, (such as BuchananFoster.com), the (disputed) Reform Party candidates that year.

Despite his multiple criminal convictions, Mr. Mark Clausen is a licensed attorney practicing in the State of California and has been since 1996—before the time of the events in question. Mr. Clausen was contacted by a representative of the Buchanan-Foster campaign, Ms. Georgia Daniele Herberg. At her request, Mr. Clausen contacted me (and others described below) and demanded that I turn over domain names of substantial value to the campaign.

Beginning at 3:43 AM (yes... AM) on August 25, 2000, Mr. Clausen contacted me first by telephone and email and repeatedly demanded that I turn over internet domain names to the Buchanan-Foster campaign. Mr. Clausen repeatedly threatened litigation against me. Mr. Clausen sent me multiple emails and several demand letters via U.S. mail.

As I later discovered and many of the enclosed attachments prove, Mr. Clausen not only threatened suit against me, but also harassed, threatened, and intimidated many other organizations, including but not limited to: John Epp/Insite Investments; The Friend to

Friend Foundation; Steven Landsburg, Duncan Dwyer, and Pete Lucas. Upon information and belief, this list is likely incomplete.

In taking these actions, Mr. Clausen was clearly acting on behalf of the Buchanan-Foster campaign. In Mr. Clausen's first letter to me, attached as Exhibit A and dated August 25, 2000, Mr. Clausen states "I will offer my services free of charge to Buchanan-Foster ..." in any litigation (page 3, first paragraph). Mr. Clausen repeats this identical promise to act on behalf of the campaign without charging legal fees in Exhibit B, a demand letter sent to John Epp of Insite Investments on August 28.

Upon information and belief, Mr. Clausen likely made identical commitments to the other domain owners. I have communicated directly with at least two other domain owners (one of whom was Pete Lucas) and been told this, but I am not in possession of Mr. Clausen's correspondence directed to them.

It appears that in several cases, Mr. Clausen's threats were successful. He was able to intimidate several organizations to release their domain names *to the campaign* or its representatives without filing litigation. This is supported by Exhibits C and D. Exhibit C is a letter dated September 8, 2000 directed to the Friend to Friend Foundation. It describes Mr. Clausen's demand that the domains be "released to Patrick J. Buchanan or the Buchanan Campaign". Exhibit D is a letter dated September 15, 2000 to Ms. Georgia Daniele Herberg at the Buchanan campaign, stating that he obtained a release of the domains "PatBuchanan.com" and "PatrickBuchanan.com" from The Friend to Friend Foundation and it was now owned by Ms. Herberg, a representative the campaign.

On August 30, Mr. Clausen wrote a letter to Angela Buchanan, officer and Treasurer of the Buchanan campaign. This letter is attached as Exhibit E. In this letter, he rendered substantial legal advice summarizing his substantial legal research and included copies of draft complaints for the campaign to merely sign and file in appropriate Federal Court. It is my contention that this could not have been done without Mr. Clausen's legal expertise and therefore this should be considered an in-kind contribution. Mr. Clausen was not compensated for these activities, nor (upon information and belief) were they reported as contributions.

Mr. Clausen's rampage did not stop with threats of litigation and preparing highly detailed legal documents for the campaign. Following through on his threats in the correspondence, only a few days after drafting demand letters, Mr. Clausen filed at least two lawsuits (that I know of) in early September of 2000. These lawsuits were in California state court and while he was the named Plaintiff, the relief that he requested was for the domain names be *turned over to the Buchanan campaign*.

These statements are supported by Exhibit F, a letter to me dated September 1, 2000 in which he advised me that he had filed suit. Similarly, in Exhibit G, Mr. Clausen's letter dated September 1, 2000, Mr. Clausen states that he filed a civil action against John Epp of Insite Investments.

While at one point Mr. Clausen attempted to argue that he was not acting on behalf of the campaign, his actions and his written motions to the Court prove otherwise. In all of the correspondence to the threatened defendants and in the three suits Mr. Clausen actually filed, he requested that the domains be *turned over to the campaign*.

Initially, the Buchanan campaign did not file suit as Mr. Clausen encouraged them to. Instead, they agreed to purchase the domains from me for \$5,000. I cannot attach a copy of the signed contracts because the campaign never returned them to me. However, in my civil action for tortious interference with this contract, Mr. Clausen's discovery responses acknowledge that someone he identified as Jason Braswell, an agent of the campaign and their "webmaster" signed the contract.

Frustrated with his inability to intimidate me into turning over the domains valued at \$5,000, Mr. Clausen (I allege unethically) solicited the campaign and became their attorney of record by October 5, 2000. The following day, Mr. Clausen filed what is known to be at least the *third* lawsuit, this time in Federal Court in California. While his solicitation of the campaign may or may not be an issue for the FEC, it is indicative of the lengths to which Mr. Clausen would go to assist the campaign.

Nevertheless, the California courts still lacked jurisdiction, and without even returning a telephone call, entering an appearance or responding to a written motion in any way, a Federal Judge in California transferred the matter to Federal Court in North Carolina. Mr. Clausen then traveled across the country to enter an appearance in Federal Court in Winston-Salem, North Carolina on October 30, 2000. Subsequent to this appearance, he spent approximately the next 16 months preparing and filing dozens of motions containing hundreds, if not thousands of pages of legal research and arguments. I am unable to bear the expense of duplicating and mailing these voluminous and marginally relevant pleadings; however if the FEC desires these documents, they are available from the Federal Court for the Middle District of North Carolina, case number 01:00CV1043.

In July of 2004, I filed a civil suit in North Carolina State Court against Mr. Clausen for tortious interference with a contract. This litigation is now closed. However, in that action I did discover information relevant to this complaint, including most of the correspondence from Mr. Clausen.

Discussion and legal arguments

I am not an expert in campaign finance laws. However, I have spoken several times with the staff at the F.E.C. information division hotline and (separately) spoken with knowledgeable attorneys regarding this matter. The FEC staff has been very helpful in providing information regarding campaign finance law and clarifying what constitutes an in-kind contribution.

I base my complaint upon three premises: 1/ there is a maximum allowable contribution limit; 2/ that contributions must be reported to the FEC; and 3/ in-kind contributions (of either domain names or legal services) are to be considered contributions.

As a result of Mr. Clausen's activities, the campaign acquired the ownership and use of many domain names (whose value is estimated below) without paying for them. I suspect that other violations occurred but lack the expertise to describe them with particularity.

Regarding in-kind contributions, it is my understanding that a lawyer is allowed to donate their time to a campaign as any citizen would be, but if they donate their *legal expertise* it should be considered an in-kind contribution of the fair market value of those services. The legal expertise Mr. Clausen rendered to the campaign was for litigation services, *not for compliance with FEC laws*. It would be a crime for someone who lacked a license to practice law to engage in the litigation activities performed by Mr. Clausen

I would divide the timeline described above into two periods and argue that separate campaign finance law violations occurred during each of the two periods: the time before he was retained by the campaign and the period after. The first period is from approximately August 25, 2000 until Mr. Clausen was retained by the campaign. The second period is from that retention (around October 5, 2000) forward.

While I allege that a campaign finance law violation(s) continued even *after* the campaign retained Mr. Clausen, there can be little doubt that violation(s) occurred *before* Mr. Clausen was retained.

It is my understanding that in the 2000 election cycle, the limit for an individual's contribution to a campaign was \$1,000. During the first period, prior to the campaign retaining Mr. Clausen, he performed an enormous amount of work benefiting the campaign. Mr. Clausen was *not paid* by the campaign for this work. In addition, the campaign acquired domain names worth probably tens of thousands of dollars due to Mr. Clausen's activities, but the campaign *never paid a dime* for any of these domains.

The letters attached to this complaint indicate that before Mr. Clausen was retained by the campaign, he:

- drafted lengthy correspondence and demand letters to at least half a dozen individuals and organizations who owned domain names;
- tracked down and contacted these domain owners by telephone and mail;
- attempted (and, in some cases, succeeded) in acquiring the domain names for the campaign arguably worth tens of thousands of dollars;
- spent hours investigating these individuals and conducting asset searches;
- performed by his own account "thorough legal research" (see Exhibit H) in a legal topic with which he was previously unfamiliar;
- investigated the specific facts behind multiple domain purchases and prepared detailed Federal and state court complaints;
- drafted contracts/settlement agreements which he mailed to domain owners;

- provided lengthy, detailed, specific legal advice to the campaign;
- mediated and coordinated the settlements of disputes,
- obtained signed contracts and had domains turned over to the campaign;
- issued multiple press releases for the benefit of the campaign, and finally
- *fully prosecuted two lawsuits*, requiring not only the above-mentioned preparation of the complaint and substantial legal research, but the preparation of legal arguments and multiple appearances in state Court

I argue that beginning with the demand letters written not only to me, but also to Duncan Dwyer, John Epp/Insite Investments, The Friend to Friend Foundation, Steven Landsburg, and Pete Lucas represent in-kind donations of legal services. Even though many of these matters were not litigated, they still required Mr. Clausen's legal expertise to conduct legal research, prepare demand letters, prepare complaints that were attached to and used in the correspondence, draft contracts which were used to transfer the domains to the campaign, and conduct "negotiations" with the domain owners. Therefore, they should be considered in-kind contributions

For emphasis and clarity, all of these activities were performed *before* he was retained by the campaign. Mr. Clausen offered, and in fact performed to the services, in his own words "free of charge." To the best of my ability to determine, none of these activities were reported as a contribution. I do not know whether or not the mere *offer* of donating his legal services to the campaign free of charge is in itself a campaign finance law violation. However, Mr. Clausen did not merely "bluff" when offering his services, he followed through and *performed* substantial work for the Buchanan campaign, to the benefit of the campaign, at the request of the campaign.

The first violation is that the value of the legal services performed by Mr. Clausen in *prior* to his retention by the campaign alone was far in excess of the \$1,000 contribution limit in effect at the time. By his own admission in the discovery for a civil case, Mr. Clausen stated that he typically charges between \$250 and \$350 per hour for his legal services. I argue that the work described above could not possibly be done in less than 4 hours. I would estimate that Mr. Clausen spent in the range from dozens to hundreds of hours on the activities against all of the domain owners before he was retained.

The second violation that I allege is that the campaign accepted the donations of domain names without paying for them. As previously described, Ms. Georgia Daniele Herberg accepted ownership of the domain as arranged by Mr. Clausen. Upon information and belief, at least four of the other domain owners caved and chose to turn over their domains rather than be sued by Mr. Clausen. It must be noted at this point that the campaign was willing to pay \$5,000 for the domains owned by Rendina Solutions alone, which were arguably much less valuable than the domain names such as "Pat Buchanan.com", "Buchanan2000.com" "GoPatGo.com" and "Buchanan2000.org". I would estimate the fair market value of these domains to be between \$10,000 and \$50,000.

It is not a reasonable argument that the Buchanan-Foster Presidential campaign was unaware of Mr. Clausen's activities. First, he carbon copied the campaign on each of the letters he wrote. (I am in possession of additional correspondence from Mr. Clausen, all of which was also Cc'd to the campaign if the FEC desires it). Second, he has acknowledged—under oath in civil litigation—that he was contacted by a representative of the campaign, the previously mentioned Ms. Georgia Daniele Herberg, and undertaking the domain-related activities at her request. Third, the campaign accepted transfer of the domain names arranged by Mr. Clausen. Finally, Mr. Clausen has also acknowledged contact with more than half a dozen campaign representatives, including but not limited to Ms. Angela M. "Bay" Buchanan, an officer and Treasurer.

I allege a third violation occurred after Mr. Clausen was retained by the campaign. As is described above, the activities before he was retained were only the beginning of Mr. Clausen's contributions to the campaign. Sometime around October 5, 2000, the campaign acquiesced to Mr. Clausen's unethical pestering and retained Mr. Clausen as its attorney for these matters.

After being retained by the campaign, Mr. Clausen proceeded to file a Federal civil suit in California, and entered an emergency appearance requesting an injunction before a Federal Judge in California on October 6. When unsuccessful (because the matter was transferred to North Carolina), Mr. Clausen flew across the country and entered an emergency appearance requesting a temporary restraining order before Federal Judge Beaty in Winston-Salem, North Carolina, on October 30th. Subsequent to these appearances, he spent approximately the next 16 months preparing and filing dozens of motions containing hundreds, if not thousands of pages of legal research and arguments. Mr. Clausen later broadened the litigation to include *thirty-five* other domain names, attempted to make the litigation a class action lawsuit, and filed a wide range of other motions.

Therefore the third allegation is that even *after* being retained by the campaign, Mr. Clausen either continued to be either totally uncompensated or grossly undercompensated. In the discovery from my tortious interference civil lawsuit, I attempted to confirm that, as promised, he worked for the campaign *pro bono*. I issued a subpoena on the campaign for W-2s, tax records, reported expenditures and all other documents that would indicate payment from the campaign to Mr. Clausen. The campaign's only response (via letter from Angela Buchanan) was to state that there were no such documents, and none were produced. In addition, I requested Mr. Clausen produce all bills or logs describing how many hours were worked for the campaign, any records to determine whether or not he was paid a retainer, and give Mr. Clausen the opportunity to declare that he was compensated for his services. He neither produced any of the requested documents nor denied working for the campaign as promised "for free". Instead, he refused to answer all such questions, but referenced a "pro bono agreement" and invoked the attorney-client privilege and his Fifth Amendment privilege. He also stated that he "has helped many people *pro bono*".

In addition to Mr. Clausen's promise to represent the campaign "free of charge" as described in Exhibits A and B referenced above, Exhibit I demonstrates Mr. Clausen's *own estimate* of the fair market value of his services. It is a letter from Mr. Clausen to my attorney dated November 4, 2000. In paragraph (3) on page 3, Mr. Clausen estimates that "a rough estimate of the fees and costs incurred to date would be \$10,000."

For emphasis and clarity, this was **his** estimated cost for only the *one* (Federal) suit against Rendina Solutions, and did *not* include the work done prior to when he was retained by the campaign. Therefore, this estimate does not include any costs incurred in acquiring the long list of other domain names. In addition, that estimate represents only the costs incurred in less than the *first 30 days* of the highly contentious litigation which dragged on for *16 months*.

Later in the litigation, Mr. Clausen verbally demanded \$15,000 in legal fees. To give the FEC an idea of the scope of documents prepared for that litigation, my copy of the case file of documents from Mr. Clausen weighs *35 pounds*. I have elected to spare the commission most of these documents since they are mostly not relevant to this complaint and I am unable to bear the expense of reproducing or mailing them. If needed, the index to the case file or the documents themselves are available from the Clerk of Federal Court for the Middle District of North Carolina, case no 1:00CV1043.

I presume the FEC has the authority and expertise to do several things I could not: compel the campaign to answer questions and/or produce documents that would confirm that Mr. Clausen was not paid a retainer, worked pro bono for the campaign, and was not compensated the fair market value for his services. I assume that the FEC could also determine from the filings that no expenditures were reported.


I have worked in a law office and on several occasions in my life required the services of an attorney. I have estimated the value of legal services that Mr. Clausen provided to the campaign by three different methods. Each of these methods estimates that the fair market value of the services provided to the campaign *that I know of* to be between \$35,000 and \$150,000. Mr. Clausen may very well have taken additional legal actions on behalf of the campaign against other domain owners of which I am unaware.

My fourth and final contention is that none of the contributions described in this complaint—the uncompensated legal services provided by Mr. Clausen in acquiring domain names from other parties, the domain names themselves, and the uncompensated legal services provided by Mr. Clausen in litigating the Federal lawsuit—were reported as contributions as required under Federal law.

I would be happy to answer any questions or assist in any way that I can in the collection of information to ensure an appropriate outcome for this matter

I swear that the contents of this complaint are true to the best of my knowledge.

Sincerely,

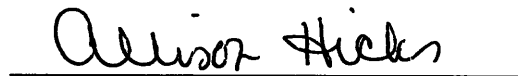


Mark Rendina

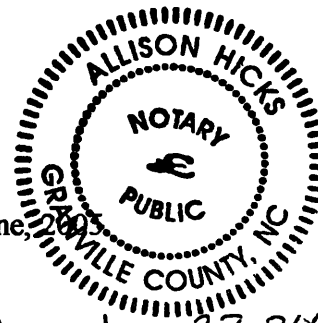
STATE OF NORTH CAROLINA

COUNTY OF Granville

Subscribed and Sworn to before me on this 24 day of June, 2005



Notary Public Signature



December 23, 2006

My commission expires

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